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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/631,224	08/02/2000	Alan P. Stevens	GB9-2000-0047-US1	9117

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EXAMINER

HO, THE T

ART UNIT PAPER NUMBER

2126

DATE MAILED: 07/17/2003

21

Please find below and/or attached an Office communication concerning this application or proceeding.

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## Office Action Summary

Application No.

09/631,224

Applicant(s)

STEVENS, ALAN P.

Examiner

The Thanh Ho

Art Unit

2126

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 02 August 2000.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-21 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-21 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 02 August 2000 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

### Priority under 35 U.S.C. §§ 119 and 120

- 13) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some \* c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

### Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 3.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_.

### **DETAILED ACTION**

1. This action is in response to the application filed 8/2/2000.
2. Claims have been examined and are pending in the application.

### ***Drawings***

3. The drawings are objected to as failing to comply with 37 CFR 1.84(p)(5) because they do not include the following reference sign(s) mentioned in the description: 285, which can be found at line 22 of page 11. Correction is required.

### ***Specification***

4. The disclosure is objected to because it contains an embedded hyperlink and/or other form of browser-executable code: pages 7-8, 10, 18-19, 25 and 29. Applicant is required to delete the embedded hyperlink and/or other form of browser-executable code. See MPEP § 608.01.

### ***Claim Rejections - 35 USC § 112***

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

5. Claim 20 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

The applicant recites "The method of claim 1" on line 23, which is an inappropriate dependent because it depends from the method of claim 11. For the purpose of art rejection, it is interpreted as "The method of claim 11" as best understood and as it appears to be.

***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(a) the invention was known or used by others in this country, or patented or described in a printed publication in this or a foreign country, before the invention thereof by the applicant for a patent.

6. Claims 1-6, 9-16 and 19-21 are rejected under 35 U.S.C. 102(a) as being anticipated by Admitted Prior Art (APA).

As to claim 1, APA discloses a profiling agent (Agent 280, Fig. 3) on a remote system (Computer 207, Fig. 3), a first application (JVM 200, Fig. 3) generates application execution data (events, line 26 page 10), receiving a request (communication from 280 to 200, Fig. 3) via a network interface (RMI 255, Fig. 3) from the profiling agent for the data; requesting the data from the first application via a local interface (communication from 210 to 200, Fig. 3); receiving the data from the first application via the local interface (JVM 200 sends events via a JVMPi 210, line 26 page 10); transmitting the data to the profiling agent via the network interface (transport the events to the profiling agent running on computer 207, lines 5-6 page 11).

As to claim 2, APA further discloses the network interface exposes the functionality of the local interface to the profiling agent on a remote system (Java Proxy 265 runs within a third JVM 260 and receives the events, lines 19-20 page 11).

As to claim 3, APA further discloses the network interface allows receipt of controls from the profiling agent for controlling the operation (JRMP is used to communicate with computer 207, lines 18-19 page 11).

As to claim 4, APA further discloses switching between synchronous and asynchronous transmission of the data (switch on or off notification of a specific event, lines 11-12 page 5).

As to claim 5, APA further discloses the controls are transmitted over a first connection (sends controls and requests via arrow 3, lines 8-9 page 5), and the data over a second connection (receive events via arrow 2 from the JVM, 1 page 5).

As to claim 6, APA further discloses a buffer for storing the data (230, Fig. 3) prior to transmission to the profiling agent.

As to claim 9, APA further discloses compressing the data (lines 20-27 page 9).

As to claim 10, APA further discloses the local interface is a Java virtual machine profiling interface (JVMPi 210, Fig. 3), the first application is a java virtual machine (JVM 200, Fig. 3), a second application executes on top of the first application (all applications running on top of the virtual machine, lines 6-7 page 3) and causes the first application to generate the data.

As to claims 11-16 and 19-20, note the discussions of claims 1-6 and 9-10 above, respectively.

As to claim 21, note the discussion of claim 1 above.

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

7. Claims 7-8 and 17-18 are rejected under 35 U.S.C. 103(a) as being unpatentable over Admitted Prior Arts (APA) in view of Swenson U.S Patent No. 6,574,675.

As to claim 7, APA as disclosed above further teaches the application execution data comprises events (events, line 26 page 10). However, APA does not explicitly teach timestamp. Swenson teaches each event object contains timestamp. It would have been obvious to apply the teachings of Swenson to the system of APA because this provides the completion time of the sent data; therefore, the sender of the data would be informed when the transmitted event was completed as disclosed by Swenson (lines 22-44 column 2).

As to claim 8, Swenson further teaches the event is synchronous (synchronous communication interface, line 16 column 2), switching to synchronous transmission responsive to receipt of a synchronous event (lines 13-21 column 2).

As to claims 17-18, note the discussions of claims 7-8 above, respectively.

**Conclusion**

Any inquiry concerning this communication or earlier communications from the examiner should be directed to The Thanh Ho whose telephone number is 703-306-5540. A voice mail service is also available for this number. The examiner can normally be reached on Monday – Friday, 8:30 am – 5:00 pm.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-305-3900.

Any response to this action should be mailed to:

Commissioner for Patents

P.O Box 1450

Alexandria, VA 22313-1450

Or fax to:

- AFTER-FINAL faxes must be signed and sent to (703) 746 – 7238
- OFFICAL faxes must be signed and sent to (703) 746 – 7239
- NON OFFICAL faxes should not be signed, please send to (703) 746 – 7240

TTH  
July 14, 2003



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